

## **Minutes**

Otay Ranch POM Preserve Management Team Meeting  
Chula Vista City Manager's Conference Room  
276 Fourth Avenue, Chula Vista, CA 91910  
10:00 – 11:00 a.m., September 11, 2007

Approved by POM PMT on 12/17/07  
Motion to approve by Scott Tulloch  
Motion Seconded by Chandra Wallar  
Motion carried.

### **ATTENDEES:**

#### **City of Chula Vista**

Scott Tulloch, Assistant City Manager  
Marisa Lundstedt, Principal Planner  
Amy Partosan, Administrative Analyst II

#### **County of San Diego**

Chandra Wallar, Deputy Chief Administrative Officer, Land Use & Env. Group  
Michael De La Rosa, District 1 Policy Advisor  
Megan Jones, LUEG DCAO Staff Officer  
Renée Bahl, Director Department of Parks and Recreation  
Maeve Hanley, Group Program Manager  
Cheryl Goddard, Land Use Environmental Planner

#### **Public**

Kathleen Brubaker, USFWS  
David Mayer, CDFG  
Bruce April, Caltrans  
Tom Tomlinson, McMillin  
Justin Craig, McMillin  
Rikki Schroeder, McMillin  
Sean Kilkenny, Otay Ranch Company  
Curt Noland, Otay Land Company  
Jill Terp, USFWS/Refuges

### **ATTACHMENT A – Meeting Sign-in Sheet**

#### **1. Call to Order**

Meeting called to order at 10:05 a.m. by City of Chula Vista/SCOTT  
TULLOCH

**2. Introductions**

Self introductions, all participants and public

**3.**

**3. Approval of Preserve Management Team (PMT) Meeting Minutes of August 10, 2007**

County of San Diego/CHANDRA WALLAR motioned to approve the meeting minutes.

Motion seconded by TULLOCH.

Motion carried.

**4. Management of non-Otay Ranch lands**

County of San Diego/MAEVE HANLEY discussed the Joint Criteria handout. POM staff was directed by the PMT to develop a list of pros and cons regarding POM managing non-Otay Ranch lands and a draft list of Acceptance Criteria needed if the POM were to manage such lands.

A list of the Acceptance Criteria can be found on the Joint Criteria handout which has been agreed to by both the City and the County.

County of San Diego/HANLEY discussed the County of San Diego's Position Paper handout which listed the County's pros and cons for the POM managing non-Otay Ranch lands. HANLEY noted that the Joint Exercises of Powers Agreement (JPA) between the City of Chula Vista and the County of San Diego for the Planning, Operation, and Maintenance of the Otay Ranch Open Space Preserve describes that the POM is to manage the land conveyed into the preserve according to the Conveyance Plan as development projects are processed within Otay Ranch.

A list of the pros and cons per the County can be found on the County of San Diego's Position Paper handout.

City of Chula Vista/MARISA LUNDSTEDT discussed the City of Chula Vista's Position Paper handout which listed the City's pros and cons for the POM managing non-Otay Ranch lands. LUNDSTEDT noted that per the JPA, the POM was meant to be the single land steward for the designated 11,375-acre Otay Ranch Preserve. The JPA did not specifically prohibit the POM from managing non-Otay Ranch mitigation land. The RMP was created to plan comprehensively for the Preserve and the RMP is also silent on the issue of whether or not the POM could manage non-Otay Ranch mitigation land.

A list of the pros and cons per the City can be found on the City of Chula Vista's Position Paper handout.

City of Chula Vista/TULLOCH opened the discussion up to the public.

CURT NOLAN asked City of Chula Vista/LUNDSTEDT how a Community Facility District (CFD) would be implemented to fund the management of non-Otay Ranch mitigation land. Who would pay into the CFD? What would the CFD cover? What would it encumber?

City of Chula Vista/LUNDSTEDT responded that Rolling Hills Ranch could be used as an example of a residential development project. A separate CFD would be set up similar to the one set up for Otay Ranch developers. As noted on the County's Position Paper handout, some developments cannot be taxed by local jurisdictions, i.e. Caltrans. In that case, Caltrans wouldn't meet the criteria to utilize a CFD. CFDs may not be feasible in all cases. LUNDSTEDT clarified that the County stated that the City would have to amend its existing Otay Ranch CFD to include non-Otay Ranch mitigation lands but that the City would not. Instead of amending the City's current Preserve CFD to expand inclusion of other lands, they would create new CFDs for other projects .

NOLAN stated that a developer within the City of San Diego has commercial/industrial land that he would like to develop and mitigate within the Preserve. How would a CFD work since commercial/industrial developments are typically under a single owner.

City of Chula Vista/TULLOCH responded that it doesn't matter what you call the funding mechanism as long as you get the desired outcome – perpetual funding. An endowment may be risky because there is no guarantee that the amount would be enough to manage the land in perpetuity. Instead, a legal binding agreement with the developer could contain an “out clause” that would allow the developer to back out of the agreement if they do not agree to the amount of money being requested by the POM to manage the land. In that case, the developer would have to find a private land manager to manage the land.

County of San Diego/WALLAR agreed with TULLOCH. Caltrans is an entity that will be here for a long time. It may be appropriate to have a “pay-as-you-go” plan with them to fund the management of their mitigation land. Their agreement could also contain an “out clause”.

City of Chula Vista/TULLOCH stated that there is a risk with all CFDs. Increasing the tax amount requires a Prop 218 vote. If you don't get the majority vote, maintenance of the land may have to be cut back. Or in current times, there has been an increase on mortgage payment defaults. If people cant afford to pay their mortgage they, they also wont pay into the CFDs. This will lead to a loss of money until the bank sells the property. Bottomline is that there is risk to all funding mechanisms.

County of San Diego/WALLAR stated that the City and County are closer than we think on the POM managing all lands within the Preserve. Everyone agrees that it is a pro to have one land manager for the Preserve. The biggest con is finding an appropriate funding source to manage the land in perpetuity be it through an endowment, CFD, or a pay-as-you-go program. What is not clear is whether or not having the POM manage non-Otay Ranch lands will create an additional layer of bureaucracy. Would there be a higher cost for developers because of additional administrative charges, i.e. Chula Vista would have to manage separate accounts.

City of Chula Vista/TULLOCH stated that funding criteria needed to be drafted to determine when a CFD would be better to utilize over a pay-as-you-go type program. CFDs would be easier for some situations vs. others. Endowments can be risky for the POM. There is no assurance that there would be enough money to manage the land in perpetuity. Endowments are also a huge one-time cost for the developer.

City of Chula Vista/LUNDSTEDT stated that the administrative cost to manage the current Preserve CFD with a budget of approximately \$300,000 amounted to less than 2% of the budget. Administrative cost is reasonable.

DAVID MAYER stated that CA Dept. of Fish and Game (CDFG) supports one land manager for the Preserve. There is a huge shortage of available land managers in the Otay area. It is easier to find land managers for large parcels but very difficult to find a land manager who will want to manage smaller parcels unless they are adjacent to other open space. CDFG supports the POM as the land manager for the entire Preserve as long as they are compensated appropriately to manage the land. The POM shouldn't be burdened with additional costs of managing non-Otay Ranch lands. As for funding, CDFG prefers endowments over CFDs. Endowments must discuss potential changes in time in the work plan. This is considered in the calculation of the final endowment amount. CFDs are not preferred because when an increase is needed, Prop 218 requires a vote, and the vote is typically to increase the amount at the smallest amount possible. CDFG questions who should hold the endowments. Jurisdictions have a low return rate. Outside non-profit agencies may have a higher return rate, i.e. San Diego Foundation. CDFG is not endorsing the San Diego Foundation to hold any endowments for Otay Ranch, however, it has been their experience that San Diego Foundation has a 4% capitalization return rate. They also do some of the administrative work and will check-up on managing and monitoring requirements prior to pay out. Non-profits can also pay out at 6 month intervals where jurisdictions would have to pay out monthly.

TOM TOMLINSON agrees with Chandra that when it boils down, the main issue is funding. The actual land management is not an issue because the developers would have to meet success criteria before the POM would take over long-term management. For example, Rolling Hills Ranch would be funded through a Chula Vista managed CFD. The City of Chula Vista is a POM member. One would be weary if the management of land is funded through a CFD and the CFD is managed through an entity that is not a POM member.

County of San Diego/WALLAR agreed that it would be very complicated if the CFD covered more than just the management of the Preserve land.

City of Chula Vista/TULLOCH also agreed. It would make for a complicated arrangement. The CFD should be created solely for the management of the Preserve land. Would need to create criteria on when a CFD is feasible.

KATHLEEN BRUBAKER reiterated MAYER'S comments. There are not many qualified land managers in the Otay area. USFWS is confident with the POM taking over management responsibilities. One of the biggest pros for the POM managing the entire preserve is the consolidation factor.

County of San Diego/RENÉE BAHLE clarified that the County's recommendation is that non-Otay Ranch land should be managed by the respective jurisdiction vs. the POM.

County of San Diego/WALLAR directs POM staff to work together on drafting adequate finance resources.

City of Chula Vista/TULLOCH agrees. Staff will need to draft criteria on when each resource should be used.

County of San Diego/WALLAR suggests that each jurisdiction involve their counsels/attorneys to verify that the funding sources are legal and appropriate. The County will also be coordinate with their Finance group.

TOMLINSON asked if these actions would ultimately require JPA and RMP amendments.

County of San Diego/WALLAR responds that yes this would require JPA and RMP amendments. Language should be included in the JPA and RMP to memorialize the changes and add clarity to the documents. The amendment process would also require the jurisdictions to assess the financial risks from the proposed changes. WALLAR asked POM staff when would they be able to see draft criteria.

City of Chula Vista/LUNDSTEDT stated that the POM Policy Committee is scheduled to meet on October 5<sup>th</sup>.

County of San Diego/WALLAR directed POM staff to provide information to the PMT 1 week before the Policy Committee meeting (Friday, September 28<sup>th</sup>). No additional PMT meeting is needed prior to the Policy Committee meeting.

MAYER offered his help in reviewing work plans and land manager requirements. He has experience working on The Environmental Trust bankruptcy and would have advice on what it takes to get the work done.

City of Chula Vista/TULLOCH asked MAYER about the potential for non-Otay Ranch mitigation lands to have additional requirements over and above those required for Otay Ranch development projects.

MAYER responded that there could definitely be additional requirements needed for non-Otay Ranch mitigation lands. Mitigation requirements will be based on the development project location and the impacted sensitive species, i.e. impacts to burrowing owls.

City of Chula Vista/TULLOCH and County of San Diego/WALLAR ask the Wildlife Agencies for mitigation consistency is what is required for the Preserve.

BRUCE APRIL stated that Caltrans has worked with the Wildlife Agencies on the SR-125 mitigation lands. The Wildlife Agencies are upfront with inconsistencies they find.

City of Chula Vista/TULLOCH asked WALLAR to recap her thoughts on the Caltrans mitigation land.

County of San Diego/WALLAR stated that the County would be comfortable with Caltrans entering into a “pay-as-you-go” type program with the POM to manage their mitigation land because Caltrans will be around just as long as the jurisdictions will be around.

APRIL stated that the “pay-as-you-go” idea raises red flags. Caltrans must follow certain protocols on how money is distributed based on CTC votes.

City of Chula Vista/TULLOCH noted that agreements with any of the developers should include a back out clause that would allow the developer to switch from the POM managing the land to a private land manager if they did not agree to the cost calculations.

TOMLINSON stated that Rolling Hills has an adaptive management plan in that the land is managed to the extent that funds are available.

NOLAN commented that the 400 excess Preserve land was always planned to be in the Preserve. There is already biodiversity in the Preserve. Why would there be different criteria for specific species?

City of Chula Vista/LUNDSTEDT responded that we would have to look at each development project and Wildlife Agencies' mitigation requirements on a case-by-case basis. Typically, the additional mitigation requirements involve a higher frequency in monitoring requirements.

County of San Diego/BAHL – Requested that Chula Vista take the lead on working with the County on drafting funding criteria since they currently manage the Preserve CFD.

City of Chula Vista/LUNDSTEDT agreed.

**5. Public Comment**

City of Chula Vista/TULLOCH opened and closed with no comment.

**6. Adjournment**

Meeting adjourned by City of Chula Vista/TULLOCH at 10:44 a.m.



Otay Ranch Preserve Owner Manager  
Preserve Management Team  
Sign-In Sheet  
September 11, 2007

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